

AMENDED IN SENATE MARCH 24, 2004

SENATE BILL

No. 1831

Introduced by Senator Cedillo

February 20, 2004

An act to amend Sections 1623.1, 1624, 1624.05, and ~~1624.1~~ 1624.1, 2782, 3351, 3692, 3706.1, 3811, 4672, 4672.1, 4986, 5151, and 20583 of the Revenue and Taxation Code, relating to property taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1831, as amended, Cedillo. ~~Property taxation: assessment appeals boards~~ tax administration.

~~Under~~

(1) Existing law requires the county treasurer to keep an accounting of all moneys, including property tax payments, that he or she pays or receives. Existing property tax law also requires a county treasurer or tax collector, as applicable, to pay interest on replicated property tax payments if that replicated payment is not returned to the tendering party within 60 days following the receipt of the replicated payment.

This bill would provide that the requirement to pay interest on a replicated payment only applies if the accrued interest is equal to or greater than \$10 at the time the replicated payment is returned to the tendering party.

(2) Existing law requires the tax collector to publish annually a notice of impending default for failure to pay taxes on real property, and to publish annually the affidavit that real property, on which taxes, assessments, penalties, and costs had not been fully paid by the close of business on the last business day of the fiscal year, is in default.

This bill would instead specify as the default date June 30, or the next business day if June 30 falls on a weekend or holiday.

(3) Existing law requires the tax collector to attempt to sell tax-defaulted property within 4 years of the time that property becomes subject to sale for nonpayment of taxes. Existing law authorizes a tax collector, in the case of tax-defaulted property that is rendered unusable by its size, location, or other condition, to allow owners of contiguous parcels to place a bid on that tax-defaulted property.

This bill would authorize a tax collector to also allow a holder of record of either a predominant easement or a right-of-way easement on that tax-defaulted property to place a bid on that tax-defaulted property.

(4) Existing property tax law requires that notice of any postponed public auction sale of tax-defaulted property, that is held not less than 8 days nor more than 60 days from the date of the originally scheduled sale, be given in the same manner as the notice for that originally scheduled sale.

This bill would increase the maximum postponement period specified in this requirement from 60 days to 90 days.

(5) Existing law sets forth procedures that are required to be followed with respect to sales of tax-defaulted property.

This bill would make clarifying amendments to repeal references to procedures that are no longer required by law.

(6) Existing property tax law requires a county auditor, without regard to the existing 4-year statute of limitations, and upon receipt of satisfactory proof, to cancel specified classes of taxes, penalties, or costs levied or charged on property.

This bill would authorize the county auditor to cancel erroneous assessments collected after the expiration of the 4-year statute of limitations, if the request for cancellation is initiated within 120 days of the payment of those erroneous assessments.

(7) Existing property tax law requires, as provided, that interest is to be paid at the greater of 3% per annum, or the 'county pool apportioned rate,' on any amount that is refunded to a property taxpayer.

This bill would provide that, beginning January 1, 2005, interest shall be computed in the same manner as computed by the Internal Revenue Service.

(8) Existing property tax law provides that certain individuals who have an ownership interest, as defined, in a residential dwelling may request postponement of property taxes.

This bill would include in the definition of an ownership interest an interest in residential property that is held in a specified type of trust,

if the Controller determines that the state's interest is adequately protected.

(9) Under existing law, a person appointed or selected to be a member of an assessment appeals board must have certain qualifications relating to experience and knowledge.

This bill would ~~require~~ make a conforming change relating to requiring members appointed to the assessment appeals board to meet different eligibility requirements based on the population of the county in which the assessment appeals board sits. This bill would also allow a property appraiser certified by the State Board of Equalization to be eligible for nomination to the assessment appeals board, would require documentation of qualifying experience of appeals board members to be filed with the clerk of the board, and would allow current members of an appeals board to be reappointed.

(10) This bill would also make various clarifying or technical, nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1623.1 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 1623.1. As an alternative to the nomination and selection
- 4 procedure provided in Section 1623, the board of supervisors may,
- 5 by ordinance, provide that it shall appoint the members and
- 6 alternates of the assessment appeals board, upon the expiration of
- 7 any term of office or the occurrence of a vacancy on such board.
- 8 Any person so appointed shall meet the eligibility requirements of
- 9 Section 1624 or 1624.05, whichever is applicable.
- 10 SEC. 2. Section 1624 of the Revenue and Taxation Code is
- 11 amended to read:
- 12 1624. (a) A person is not eligible for nomination for
- 13 membership on an assessment appeals board unless he or she meets
- 14 one of the following criteria:
- 15 (1) Has a minimum of five years professional experience in this
- 16 state as a certified public accountant or public accountant, a
- 17 licensed real estate broker, an attorney, a property appraiser
- 18 accredited by a nationally recognized professional organization,
- 19 or a property appraiser certified by the Office of Real Estate



1 Appraisers, or a property appraiser certified by the State Board of
2 Equalization.

3 (2) Is a person who the nominating member of the board of
4 supervisors has reason to believe is possessed of competent
5 knowledge of property appraisal and taxation.

6 (b) Documentation of qualifying experience of appeals board
7 members shall be filed with the clerk of the board.

8 (c) This section shall apply only to an assessment appeals board
9 in a county with a population of less than 200,000.

10 (d) County population estimates conducted by the Department
11 of Finance pursuant to Section 13073.5 of the Government Code
12 shall be used in determining the population of a county for
13 purposes of this section.

14 SEC. 3. Section 1624.05 of the Revenue and Taxation Code
15 is amended to read:

16 1624.05. (a) A person shall not be eligible for nomination for
17 membership on an assessment appeals board unless he or she has
18 a minimum of five years' professional experience in this state as
19 one of the following: certified public accountant or public
20 accountant, licensed real estate broker, attorney, property
21 appraiser accredited by a nationally recognized professional
22 organization, property appraiser certified by the Office of Real
23 Estate Appraisers, or property appraiser certified by the State
24 Board of Equalization.

25 (b) Notwithstanding the provisions of subdivision (a), a person
26 shall be eligible for nomination for membership on an assessment
27 appeals board if, at the time of the nomination, he or she is a current
28 member of an assessment appeals board.

29 (c) Documentation of qualifying experience of appeals board
30 members shall be filed with the clerk of the board.

31 (d) This section shall apply only to an assessment appeals board
32 in a county with a population of 200,000 or more.

33 (e) County population estimates conducted by the Department
34 of Finance pursuant to Section 13073.5 of the Government Code
35 shall be used in determining the population of a county for
36 purposes of this section.

37 SEC. 4. Section 1624.1 of the Revenue and Taxation Code is
38 amended to read:

39 1624.1. (a) No person shall be qualified to be a member of an
40 assessment appeals board who has, within the three years

1 immediately preceding his or her appointment to that board, been
2 an employee of an assessor's office.

3 (b) Notwithstanding subdivision (a), a person shall be eligible
4 for nomination for membership on an assessment appeals board if,
5 at the time of the nomination, he or she is a current member of an
6 assessment appeals board.

7 *SEC. 5. Section 2782 of the Revenue and Taxation Code is*
8 *amended to read:*

9 2782. If a replicated tax payment is not returned to the
10 tendering party within 60 days as provided in this chapter, the
11 county shall, in addition to returning the replicated payment as
12 soon as practicable, pay the tendering party interest, *if that interest*
13 *is ten dollars (\$10) or more*, on the amount of replicated payment
14 at the rate provided in Section 5151. The interest shall be
15 computed for the period beginning 60 days after the county
16 receives the replicated payment to the date the replicated payment
17 is returned to the tendering party.

18 *SEC. 6. Section 3351 of the Revenue and Taxation Code is*
19 *amended to read:*

20 3351. (a) Annually, on or before June 8, the tax collector
21 shall publish a notice of impending default for failure to pay taxes
22 on real property, except tax-defaulted property and possessory
23 interests, the taxes, assessments, penalties, and costs on which will
24 have not been fully paid by the close of business on ~~the last~~
25 ~~business day of the fiscal year~~ *June 30, or the next business day if*
26 *June 30 falls on a Saturday, Sunday, or a legal holiday.*

27 (b) If the tax collector sends reminder notices prior to the close
28 of the fiscal year and annually sends a redemption notice of prior
29 year due taxes, the notice required by subdivision (a) shall only
30 include properties that have been tax-delinquent for three or more
31 years and for which the latest reminder notice or redemption notice
32 was returned to the tax collector as undeliverable.

33 *SEC. 7. Section 3692 of the Revenue and Taxation Code is*
34 *amended to read:*

35 3692. (a) The tax collector shall attempt to sell tax-defaulted
36 property, as provided in this chapter, within four years of the time
37 that the property becomes subject to sale for nonpayment of taxes
38 unless, by other provisions of law, the property is not subject to
39 sale. If there are no acceptable bids at the attempted sale, the tax

1 collector shall attempt to sell the property at intervals of no more
2 than six years until the property is sold.

3 (b) When oil, gas, or mineral rights are subject to sale for
4 nonpayment of taxes, the tax collector may offer the interest at
5 minimum bid to the holders of outstanding interests where the
6 interest subject to sale is a partial interest or, where the interest
7 subject to sale is a complete and undivided interest, to the owner
8 or owners of the property to which the oil, gas, or mineral rights
9 are appurtenant.

10 (c) When parcels that are rendered unusable by their size,
11 location, or other conditions are subject to sale for nonpayment of
12 taxes, the tax collector may offer the parcel, at a minimum bid, to
13 owners of contiguous parcels *or to a holder of record of either a*
14 *predominant easement or a right-of-way easement.* ~~The~~ *If the*
15 *parcel is sold to a contiguous property owner, the* tax collector
16 shall require that the successful bidder request the assessor and the
17 planning director to combine the unusable parcel with the bidder's
18 own parcel as a condition of sale.

19 (d) Sealed bid sale procedures shall be used when offers are
20 made pursuant to subdivision (b) or subdivision (c), and the
21 property shall be sold to the highest eligible bidder. The offers shall
22 remain in effect for 30 days or until notice is given pursuant to
23 Section 3702, whichever is later.

24 (e) The Notice to the Board of Supervisors and Notice of
25 Intended Sale of Tax-Defaulted Property shall indicate that any
26 parcel remaining unsold may be reoffered within a 90-day period
27 and any new parties of interest shall be notified in accordance with
28 Section 3701. This subdivision ~~shall~~ *does not* apply to properties
29 sold pursuant to Chapter 8 (commencing with Section 3771).

30 *SEC. 8. Section 3706.1 of the Revenue and Taxation Code is*
31 *amended to read:*

32 3706.1. The tax collector shall have authority to postpone the
33 public auction sale or any portion thereof under the following
34 conditions:

35 (a) Notice of any postponement of the sale shall be made by the
36 tax collector who, by public declaration at the time and place
37 originally fixed for the sale, may postpone the sale to a new time,
38 date, and place. No other notice of the postponed sale need be
39 given if the date for the new time, date, and place is within seven
40 days of the time originally fixed for the sale.

(b) Notice of any postponed sale that is *scheduled* to be held not less than eight days nor more than ~~60-90~~ days from the time originally fixed for the sale, shall be made pursuant to the same provisions that were followed in providing notice of the original sale to parties of interest, as defined in Section 4675.

SEC. 9. *Section 3811 of the Revenue and Taxation Code is amended to read:*

3811. On execution of the deed to the taxing agency or nonprofit organization, ~~and on receipt of a notice of resale of the property by the taxing agency~~ the tax collector shall report the following ~~within 10 days~~ to the Controller, the assessor, and the auditor:

(a) The name of the purchaser.

(b) The *effective* date of the sale ~~and the date of the transfer of the deed to the taxing agency or nonprofit organization, or in the event of resale the date of the deed by the taxing agency.~~

(c) The amount for which the property was sold ~~or in the event of resale the net amount after deducting allowable expenses.~~

(d) The description of the property conveyed.

SEC. 10. *Section 4672 of the Revenue and Taxation Code is amended to read:*

4672. (a) There shall be distributed to the State of California, to be placed in the General Fund, ~~the following:~~

~~One one~~ one dollar and fifty cents (\$1.50) for all or any portion of each separately valued parcel of real property *that is both* subject to a power of sale pursuant to Section 3691 and sold to private parties or to a taxing agency.

~~If property is deeded to a taxing agency under an agreement requiring that the taxing agency resell the property, it shall not be deemed "sold" until resold by the taxing agency to a private party.~~

The

(b) ~~The one dollar and fifty cents (\$1.50) for property sold required to be distributed, pursuant to subdivision (a), shall be paid from the total amount to be distributed proceeds of the sale.~~ If the total amount of *proceeds from the sale* is insufficient, the one dollar and fifty cents (\$1.50) shall be reduced accordingly.

SEC. 11. *Section 4672.1 of the Revenue and Taxation Code is amended to read:*

4672.1. (a) There shall be distributed to the county general fund to reimburse the county for the cost of conducting the sale,

1 one hundred fifty dollars (\$150) for all or any portion of each
2 separately valued parcel of real property subject to a power of sale
3 pursuant to Section 3691 and sold to private parties or to a taxing
4 agency.

5 ~~If property is deeded to a taxing agency under an agreement~~
6 ~~requiring that the taxing agency resell the property it shall not be~~
7 ~~deemed “sold” until resold by the taxing agency to a private party.~~

8 ~~One~~

9 ~~(b) The one hundred fifty dollars (\$150) for property sold~~
10 ~~required to be distributed pursuant to subdivision (a), shall be paid~~
11 ~~from the total amount to be distributed; proceeds of the sale only~~
12 ~~after satisfaction of the amount specified in Section 4672. If the~~
13 ~~amount of proceeds from the sale is insufficient, the one hundred~~
14 ~~fifty dollars (\$150) shall be reduced accordingly.~~

15 *SEC. 12. Section 4986 of the Revenue and Taxation Code is*
16 *amended to read:*

17 4986. (a) All or any portion of any tax, penalty, or costs,
18 heretofore or hereafter levied, shall, on satisfactory proof, be
19 canceled by the auditor if it was levied or charged:

20 (1) More than once.

21 (2) Erroneously or illegally.

22 (3) On the canceled portion of an assessment that has been
23 decreased pursuant to a correction authorized by Article 2
24 (commencing with Section 4876) of Chapter 2.

25 (4) On property ~~which~~ that did not exist on the lien date.

26 (5) On property annexed after the lien date by the public entity
27 owning it.

28 (6) On property acquired by the United States, the state, or by
29 any county, city, school district or other public entity, to the extent
30 provided in Article 5 (commencing with Section 5081).

31 (7) On that portion of an assessment in excess of the value of
32 the property as determined by the assessor pursuant to Section 469.

33 (b) No cancellation under paragraph (2) of subdivision (a) ~~shall~~
34 *may* be made in respect of all or any portion of any tax, or penalties
35 or costs attached thereto, collectible by county officers on behalf
36 of a city without the written consent of the city attorney or other
37 officer designated by the city council unless the city council has
38 authorized the cancellation by county officers. The resolution shall
39 remain effective until rescinded by the city council.

(c) If the tax, penalty, or costs, are collected more than four years following the enrollment of the tax bill, the cancellation authorized pursuant to subdivision (a) may only be performed if the cancellation action is initiated within 120 days of the payment.

SEC. 13. Section 5151 of the Revenue and Taxation Code is amended to read:

5151. (a) Interest ~~at the greater of 3 percent per annum or the county pool apportioned rate~~ shall be paid, when that interest is ten dollars (\$10) or more, on any amount refunded under Section 5096.7, or refunded to a taxpayer for any reason whatsoever, and shall be computed in the same manner as prescribed in Sections 6621(a)(1) and 6222 of the Internal Revenue Code, as prescribed pursuant to Section 13563. However, no interest shall be paid under the provisions of this section if the taxpayer has been given the notice required by Section 2635 and has failed to apply for the refund within 30 days after the mailing of that notice. For purposes of this section, ~~“county pool apportioned rate” means the annualized rate of interest earned on the total amount of pooled idle funds from all accounts held by the county treasurer, in excess of the county treasurer’s administrative costs with respect to that amount, as of June 30 of the preceding fiscal year for which the refund is calculated. For each fiscal year, the county treasurer shall advise the Controller of the county pool apportioned rate, and of computations made in deriving that rate, no later than 60 days after the end of that fiscal year.~~

~~(b) The interest rate provided for in subdivision (a) does not apply to interest on refunds of those amounts of tax that became due and payable before March 1, 1993. Interest on refunds of amounts of a qualified tax shall be paid at that rate provided for by this section as it read prior to January 1, 1993. As used in this section, a “qualified tax” means a tax that became due and payable before March 1, 1993, and had not been refunded as of April 6, 1995. This subdivision shall not be construed to affect the interest paid on refunds of those amounts of tax that became due and payable before March 1, 1993, and have been refunded as of April 6, 1995.~~

~~(c)~~

(b) (1) The interest computation period shall commence with the date of payment of the tax when any of the following apply:

1 (A) A timely application for reduction in an assessment was
2 filed, without regard to whether the refund ultimately results from
3 a judgment or order of a court, an order of a board of equalization
4 or assessment appeals board, or an assessor's correction to the
5 assessment roll.

6 (B) The refund is pursuant to a roll correction resulting from
7 the determination or adjustment by the assessor or a local
8 assessment appeals board of a base year value.

9 (C) The refund results from a correction to the assessment roll
10 pursuant to Section 4831 or 4876.

11 (2) Interest on refunds of taxes on property acquired by a public
12 agency in eminent domain shall accrue from the date of
13 recordation of the deed.

14 (3) In all other cases the interest computation period shall
15 commence on the date of filing a claim for refund or payment of
16 the tax, whichever is later. However, in the event of the granting
17 of property tax relief pursuant to Section 69, 69.3, or 170, interest
18 is not payable on any resulting refund of taxes, provided that
19 payment of that refund of taxes is made within 120 days after the
20 county assessor has sent authorization for the reduction to the
21 county auditor.

22 ~~(d)~~

23 (c) The computation of interest shall terminate as of a date
24 within 30 days of the date of mailing or personal delivery of the
25 refund payment.

26 ~~(e)~~

27 (d) The interest charged shall be apportioned to the appropriate
28 funds, as determined by the county auditor.

29 ~~(f)~~

30 (e) The amendments made to this section by the act adding this
31 subdivision shall apply to all refunds made after January 1, 1997
32 2005.

33 *SEC. 14. Section 20583 of the Revenue and Taxation Code is*
34 *amended to read:*

35 20583. (a) "Residential dwelling" means a dwelling
36 occupied as the principal place of residence of the claimant, and
37 so much of the land surrounding it as is reasonably necessary for
38 use of the dwelling as a home, owned by the claimant, the claimant
39 and spouse, or by the claimant and either another individual
40 eligible for postponement under this chapter or an individual

described in subdivision (a), (b) or (c) of Section 20511 and located in this state. It shall include condominiums and mobilehomes ~~which~~ *that* are assessed as realty for local property tax purposes. It also includes part of a multidwelling or multipurpose building and a part of the land upon which it is built. In the case of a mobilehome not assessed as real property ~~which~~ *that* is located on land owned by the claimant, residential “dwelling” includes the land on which the mobilehome is situated and so much of the land surrounding it as reasonably necessary for use of the mobilehome as a home.

(b) As used in this chapter in reference to ownership interests in residential dwellings, “owned” includes (1) the interest of a vendee in possession under a land sale contract provided that the contract or memorandum thereof is recorded and only from the date of recordation of the contract or memorandum thereof in the office of the county recorder where the residential dwelling is located, (2) the interest of the holder of a life estate provided that the instrument creating the life estate is recorded and only from the date of recordation of the instrument creating the life estate in the office of the county recorder where the residential dwelling is located, but “owned” does not include the interest of the holder of any remainder interest or the holder of a reversionary interest in the residential dwelling, (3) the interest of a joint tenant or a tenant in common in the residential dwelling or the interest of a tenant where title is held in tenancy by the entirety or a community property interest where title is held as community property, *and (4) the interest in the residential dwelling in which the title is held in trust, as described in subdivision (b) of Section 62, provided that the Controller determines that the state’s interest is adequately protected.*

(c) For purposes of this chapter, the registered owner of a mobilehome shall be deemed to be the owner of the mobilehome.

(d) Except as provided in subdivision (c), and Chapter 3 (commencing with Section 20625), ownership must be evidenced by an instrument duly recorded in the office of the county where the residential dwelling is located.

(e) “Residential dwelling” does not include any of the following:

(1) Any residential dwelling in which the owners do not have an equity of at least 20 percent of the full value of the property as

determined for purposes of property taxation or at least 20 percent of the fair market value as determined by the Controller and where the Controller determines that the state's interest is adequately protected. The 20 percent equity requirement shall be met at the time the claimant or authorized agent files an initial postponement claim and tenders to the tax collector the initial certificate of eligibility described in Sections 20602, 20639.6, and 20640.6.

(2) Any residential dwelling in which the claimant's interest is held pursuant to a contract of sale or under a life estate, unless the claimant obtains the written consent of the vendor under the contract of sale, or the holder of the reversionary interest upon termination of the life estate for the postponement of taxes and the creation of a lien on the real property in favor of the state for amounts postponed pursuant to this act.

(3) Any residential dwelling on which the claimant does not receive a secured tax bill.

(4) Any residential dwelling in which the claimant's interest is held as a possessory interest, except as provided in Chapter 3.5 (commencing with Section 20640).

(5) (A) Except as provided in this section, any residential dwelling on which the property taxes, as defined in Section 20584, are delinquent at the time the application for postponement under this chapter is made or on which any other property tax or special assessment imposed by a special district or other tax code area is delinquent at the time the application for postponement under this chapter is made.

(B) Any taxes or assessments described in subparagraph (A) ~~which~~ *that* are delinquent on July 1, 1977, ~~shall~~ *will* not disqualify an otherwise eligible dwelling for postponement under this chapter. An application for postponement under this chapter to postpone the payment of property taxes for the 1977–78 fiscal year, shall also constitute an application for the postponement of all those delinquent taxes and assessments, together with any penalties, interest, fees, or other charges resulting from that delinquency and those amounts shall, unless otherwise paid by the claimant, be paid out of the amount appropriated by Section 16100 of the Government Code and shall be added to and become part of the obligation secured by the lien provided by Section 16182 of the Government Code; provided, however, that upon payment of delinquent taxes and assessments for fiscal year 1976–77 out of the

1 amount appropriated by Section 16100, any delinquent penalties,
2 interest, fees or other charges resulting from the delinquency of
3 those taxes and assessments for fiscal year 1976–77 shall be
4 canceled.

5 (C) For 1978–79 and thereafter, any taxes or assessments
6 described in subparagraph (A) ~~which~~ *that* became delinquent after
7 the claimant was 62 and before the claimant first has established
8 a lien pursuant to Section 16182 of the Government Code ~~shall~~ *will*
9 not disqualify an otherwise eligible dwelling for postponement
10 under this chapter. An application to postpone taxes for 1978–79
11 or thereafter shall also constitute an application for the
12 postponement of all delinquent taxes and assessments, together
13 with any penalties, interest, fees, or other charges resulting from
14 the delinquency and those amounts shall, unless otherwise paid by
15 the claimant, be paid out of the amount appropriated by Section
16 16100 of the Government Code and shall be added to and become
17 part of the obligation secured by the lien provided by Section
18 16182 of the Government Code.

19 (6) All taxes or assessments described in subparagraph (A) of
20 paragraph (5) ~~which~~ *that* are delinquent on the date this bill takes
21 effect ~~shall~~ *will* not disqualify an otherwise eligible blind or
22 disabled applicant's dwelling from postponement under this
23 chapter. A blind or disabled citizen's application for postponement
24 of property taxes ~~shall~~ *will* not constitute an application for the
25 postponement of any delinquent taxes and assessments, or any
26 penalties, interest, fees or other charges resulting from
27 delinquency. Delinquent taxes of blind or disabled applicants ~~shall~~
28 ~~not be~~ *are not* subject to postponement under this chapter.

